

1 DENIS J. McINERNEY
2 Chief
3 CHARLES LA BELLA
4 Deputy Chief
5 THOMAS B.W. HALL
6 Trial Attorney
Fraud Section, Criminal Division
U.S. Department of Justice
1400 New York Avenue, NW
Washington, DC 20530
(202) 616-1682

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8 **UNITED STATES DISTRICT COURT**
9
10 **DISTRICT OF NEVADA**

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12 UNITED STATES OF AMERICA,)
13 Plaintiff,) 2:11-cr-300-PMP-PAL
14 v.)
15) UNOPPOSED MOTION TO CONTINUE
16 DARRYL NICHOLS) SENTENCING
17 Defendant.)
18 _____

19 COMES NOW, the United States of America, by and through DENIS J. MCINERNEY,
20 Chief, U.S. Department of Justice, Criminal Division, Fraud Section, and THOMAS B.W. HALL,
21 Trial Attorney, U.S. Department of Justice, Criminal Division, Fraud Section, and moves to
continue the sentencing hearing presently set for February 11, 2013, at the hour of 9:00 am.

22 The parties respectfully request this Honorable Court to continue the Sentencing Hearing
23 until at least August 1, 2013 to allow time for the defendant to complete his cooperation or, in the
24 alternative, to continue the Sentencing Hearings and set a status conference within 6 months to
25 report to the Court on the on-going investigation and the defendant's cooperation in connection
26 with the investigation.

1 This is the third request for a continuance of this Sentencing date.

2 Pursuant to General Order No. 2007-04, this Stipulation is entered into for the following
3 reasons:

4 1. The defendant has entered a plea agreement with the United States that requires the
5 defendant to cooperate with the United States in connection with its on-going investigation of a
6 fraudulent scheme involving Las Vegas Home Owners Associations. The defendant has begun
7 to cooperate with the United States in this investigation, which involves a number of potential co-
8 conspirators and targets.

9 2. The defendant's Plea Agreement afford the defendant potential consideration for
10 downward departures at the time of sentencing if the defendant has provided substantial assistance
11 to the United States, including the possibility of a United States Sentencing Guideline (U.S.S.G.) §
12 5K1.1 Motion.

13 3. The United States anticipates future pleas, indictments and the possibility of one or
14 more trials of co-conspirators and targets. These events may allow the defendant the opportunity
15 to provide further cooperation as a witness, including the possibility of testifying at trial. However,
16 the United States expects the resolution of such cases, including any trials in any related
17 cases, to be at least 6 months from the defendant's current sentencing date.

18 4. Counsel for the United States has spoken with counsel for the defendant and counsel
19 has agreed that the requested continuance is in the best interest of justice and counsel does not
20 oppose the continuance sought herein. The defendant is not in custody and remains at liberty on
21 his personal recognizance.

22 5. Denial of this request for continuance would deny the parties sufficient time and
23 opportunity to develop the defendant's cooperation against the related co-conspirators and targets
24 and prepare related cases for prosecution.

25 6. Furthermore, denial of this request for continuance could result in a miscarriage of
26 justice.

1 7. The United States also requests an order to exclude the additional time requested by
2 this continuance in computing the time within which the trial herein must commence pursuant to
3 the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), when considering the
4 factors under Title 18, United States Code, Section 3161(h)(7)(B)(I) and 3161(h)(7)(B)(iv).

6 DATED this 10th day of December 2012.

Respectfully submitted,

DENIS J. MCINERNEY
Chief
United States Department of Justice
Criminal Division, Fraud Section

/s/ Thomas B.W. Hall
THOMAS B.W. HALL
Trial Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
DARRYL NICHOLS)
Defendant.)
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2:11-cr-300-PMP-PAL
PROPOSED ORDER: UNOPPOSED
MOTION TO CONTINUE SENTENCING

FINDINGS OF FACT

Based on the Government's pending Unopposed Motion to Continue Sentencing, and good cause appearing therefore, the Court hereby finds that:

14 1. The parties are in agreement to continue the Sentencing date as presently scheduled.
15 2. This Court is convinced that an adequate showing has been made that to deny this
16 request for continuance, taking into account the exercise of due diligence, would deny the United
17 States sufficient time to be able to effectively prepare for the co-conspirator and target trials and
18 would bar the defendant from the opportunity to cooperate and potentially receive downward
19 departures at the time of sentencing. This decision is based on the following findings:

20 a. The defendant agreed in his plea agreements to cooperate against his coconspirators in
21 any related indictments and trials.

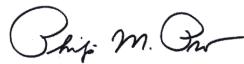
22 b. The United States agreed to consider downward sentencing concessions for the
23 defendant's cooperation, including possible U.S.S.G. 5K1.1 Motions if substantial assistance
24 resulted from such cooperation.

25 c. The United States anticipates several additional pleas, indictments and trials in related
26 cases, but not sooner than 8 months from now.

1 d. The parties need additional time to prepare the defendant's cooperation against other
2 co-conspirators and targets.
3 e. The defendant does not object to the continuance.
4 f. The defendant is out of custody.
5 3. For all the above-stated reasons, the ends of justice would best be served by continuing
6 the Sentencing date.
7 4. The additional time requested by this Stipulation is excludable in computing the time
8 within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. Section
9 3161(h)(8)(A), considering the factors under 18 U.S.C. Sections 3161(h)(8)(B)(I) and (v).

10 **ORDER**

11 **IT IS THEREFORE ORDERED** that the Sentencing date currently set for Februaruy
12 11, 2013, respectively, are vacated and the same are continued. This delay is excluded from the
13 time within which the trial must commence pursuant to the Speedy Trial Act, Title 18, United
14 States Code, Section 3161(h)(7)(A). It is further ordered that the defendant's sentencing hearing is
15 set for Monday, August 26, 2013, at 10:30 a.m. in Courtroom 7C.

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18 **DATED** this 11th day of December, 2012.
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UNITED STATES DISTRICT JUDGE

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ELECTRONIC CERTIFICATE OF SERVICE

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UNITED STATES OF AMERICA.

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Plaintiff,

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2:11-cr-300-PMP-PAL

V.

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CERTIFICATE OF SERVICE

DARRYL NICHOLS

2

Defendant.

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11 I, the undersigned, hereby certify that I am an employee of the United States Department
12 of Justice, Criminal Division, and that on this day an electronic copy of the foregoing
13 UNOPPOSED MOTION TO CONTINUE SENTENCING was electronically served on all parties
14 who have registered their appearance via the CM/ECF system.

Dated: December 10, 2012

/S/ Thomas B.W. Hall

THOMAS B.W. Hall

Trial Attorney

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